United Nations CAT/C/SVK/QPR/4

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the fourth periodic report of Slovakia*

Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee's previous recommendations

Follow-up questions from the previous reporting cycle

1. In its previous concluding observations (CAT/C/SVK/CO/3, para. 20),[1] the Committee requested Slovakia to provide further information regarding areas of particular concern identified by the Committee in paragraph 8 of those observations, concerning fundamental legal safeguards, and in paragraph 11 (a), (b) and (g), concerning: allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials; the number of cases of excessive use of force by law enforcement officials that had been investigated, disaggregated by age, gender and ethnic or national origin of the victims; the number of perpetrators who had been prosecuted for acts of torture and ill-treatment; the penalties applied to those found guilty; and any statements at the highest political level that there would be no tolerance for the excessive use of force, including against members of ethnic minorities. Noting that a reply concerning the information sought by the Committee was provided on 2 August 2016 (CAT/C/SVK/CO/3/Add.1), the Committee expresses its appreciation for the State party's responses on those matters and the substantive information provided. In view of that information, the Committee considers that the recommendations contained in paragraphs 8 and 11 (a), (b) and (g) mentioned above have not been fully implemented (see paras. 3, 5, 6 and 21 of the present document).

Articles 1 and 4

2. With reference to the Committee's previous concluding observations (para. 7), please provide information on steps taken to adopt a definition of torture that covers all elements contained in article 1 of the Convention, including a specific reference to discrimination, and to ensure that penalties for torture are commensurate with the gravity of the crime, in accordance with article 4 (2) of the Convention.

* Adopted by the Committee at its sixty-second session (6 November–6 December 2017).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

Article 2[2]

3. With reference to the Committee's previous concluding observations (para. 8), please provide updated information on effective measures adopted to guarantee that all detained persons, including minors, are afforded in practice all fundamental legal safeguards from the outset of their deprivation of liberty, such as being informed orally and in writing of the charges against them and of their rights; having prompt access to a lawyer or legal aid; having the opportunity to immediately request and receive a medical examination by an independent doctor; and having the opportunity to inform a family member or any other persons of their own choice about their deprivation of liberty immediately after apprehension.

4. With reference to the Committee's previous concluding observations (para. 9), please provide information on:

(a) Any amendments to the current legislation reducing the duration of pretrial detention;

(b) Any measures taken to replace pretrial detention with non-custodial measures, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(c) Any redress or compensation provided to victims of unjustified prolonged pretrial detention during the period under review.

5. With reference to the Committee's previous concluding observations (para. 11), and while taking note of the information provided by the State party in its follow-up reply (CAT/C/SVK/CO/3/Add.1, paras. 12–36), the Committee requests the State party to provide updated information on:

(a) Specific measures to tackle the excessive use of force by law enforcement officials, including against minors and members of ethnic minorities, and on whether discriminatory motivation for an offence constitutes an aggravating circumstance in criminal prosecution;

(b) The number of cases of excessive use of force by law enforcement officials that have been investigated during the period under review and on the number of officials found guilty and the penalties that were imposed on them;

(c) Specific steps taken to establish an independent monitoring and oversight mechanism that complies with the requirement of institutional independence in order to avoid any conflict of interest, given that the Department of Control and Inspection Service of the Ministry of the Interior operates within the same institutional structure as police officers who may be accused of ill-treatment;

(d) Any additional developments regarding the cases of the 10 policemen who were acquitted in the first instance judgment by the Košice II District Court on 27 February 2015 and subsequently on 17 May 2017 by the same court, when both judgments were partly based on the court's refusal to enter video footage of the events into the record of evidence, in relation to the physical abuse and degrading treatment of six Roma juveniles in Košice on 21 March 2009, including information on any subsequent judgments;

(e) Whether prosecutors and judges are automatically notified of all cases of ill-treatment and torture in police detention facilities, regardless of the possible absence of visible injuries;

[2] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including but not limited to article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

(f) Steps taken to ensure that persons who have made allegations of torture and ill-treatment and witnesses to such acts are protected from reprisals, and on any steps to ensure that victims of such acts are afforded redress;

(g) Any training in professional techniques and international standards on the use of force and firearms provided to law enforcement officials during the period under review and on any expansion in the number and functions of Roma police specialists;

(h) The State party's comments on the recommendations submitted by the Public Defender of Rights to the president of the police forces on 3 March 2015, and on whether any of the recommendations have been implemented.

6. With reference to the Committee's previous concluding observations (para. 11 (d)), and in the light of information received that in November 2015 the Department of Control and Inspection Service of the Ministry of the Interior terminated the entire criminal proceedings initiated in January 2014 by the General Prosecutor against police officers who had participated in the raid on 19 June 2013 on the Roma settlement of Moldava nad Bodvou in eastern Slovakia, please provide updated information on:

(a) Whether any subsequent charges were brought and criminal proceedings initiated against police officers who participated in the raid that resulted in the apprehension of 15 persons, some of whom are alleged to have been seriously ill-treated by the police during their apprehension and subsequent detention;

(b) Why the Regional Prosecutor's Office in Prešov dismissed as ill-founded complaints against the decision of the Police Inspectorate to terminate criminal proceedings against those police officers who participated in the reported violent raid and subsequent reported violent assaults at the police stations where those apprehended were brought after the raid;

(c) Why persons who were victims of the incident in Moldava and Bodvou have recently been interrogated, without being charged with a crime, as part of criminal proceedings initiated in relation to their alleged false deposition against the previously investigated police officers, and whether that may amount to retaliation against and intimidation of persons who report cases of ill-treatment by the police.

7. Please provide information on the investigation by the Department of Control and Inspection Service of the Ministry of the Interior announced by the president of the police forces, Tibor Gašpar, regarding reported indiscriminate acts of violence against Roma by the police in Zborov on 16 April 2017 that were filmed by a witness and were reported in May 2017, as a result of which a 5-year-old boy, a man in his 40s with a heart condition and an elderly woman with disabilities reportedly required medical assistance, and during which an ambulance was said to have been temporarily blocked from entering the neighbourhood.

8. With reference to the Committee's previous concluding observations (para. 12), please provide information on:

(a) Whether the State party has acknowledged responsibility for the past practice of involuntary sterilization of Roma women, pursuant to the ruling of the European Court of Human Rights in 2012;[1]

(b) Whether the State party has established an independent body to investigate the practice of sterilization without informed consent and to provide victims of involuntary sterilization with fair and adequate redress, including financial and other reparation, notwithstanding the two cases in which compensation has been awarded;

(c) Whether the State party has adopted uniform standards concerning the obtaining of free and informed consent in cases of sterilization and whether it monitors the implementation of legislation by health-care providers on informed consent in situations of sterilization and ensures that appropriate sanctions are applied in the event of any breaches;

[1] See CCPR/C/SVK/CO/4, para. 26 and CRC/C/SVK/CO/3-5, para. 24.

(d) Whether medical personnel who have conducted sterilizations without free, full and informed consent have been held criminally liable, prosecuted and punished, and on the number and outcome of such cases;

(e) Whether medical personnel receive training on appropriate means of obtaining free and informed consent from women undergoing sterilization;

(f) Whether written materials relating to sterilization, including the legally binding regulation adopted by the Ministry of Health in 2014 that contains templates for acquiring informed consent when performing sterilizations, have been translated into the Romani language and other relevant languages.

9. With reference to the Committee's previous concluding observations (para. 14), please provide information on:

(a) Measures taken to define and introduce domestic violence, including sexual violence and marital rape, as specific offences in the Criminal Code, with appropriate sanctions;

(b) Steps taken to ensure the effective implementation of the national action plan for the prevention and elimination of violence against women for the period 2014–2019 and whether regular assessments have been made regarding its progress;

(c) Whether an effective and independent complaints mechanism has been established for victims of domestic violence;

(d) Whether all allegations of domestic violence, including sexual violence, marital rape and violence against children, are registered by the police and promptly, impartially and effectively investigated and the perpetrators prosecuted and punished, with information on the number of cases and sentences pronounced;

(e) Steps to ensure that victims of domestic violence have adequate access to protection and assistance, including restraining orders; non-discriminatory access to medical treatment,[4] including reproductive health care; legal services, including counselling; and safe and adequately funded shelters, as well as access to redress, including rehabilitation.

10. With reference to the Committee's previous concluding observations (para. 15), please provide updated information on:

(a) Specific steps taken to implement international and domestic legislation aimed at countering trafficking and to ensure the effective implementation of the national programme to fight human trafficking for the period 2015–2018;

(b) Whether sufficient funds have been allocated to combating trafficking and whether a round-the-clock national hotline has been set up for that purpose;

(c) Any specialized training that has been provided to public officials on identifying victims of trafficking and on investigating, prosecuting and sanctioning perpetrators, as well as disaggregated data on the number of such investigations and prosecutions and the sentences handed down to perpetrators of human trafficking during the period under review;

(d) Steps taken to increase the protection of victims of trafficking and provide them with redress, including legal, medical and psychological aid and rehabilitation, and to provide adequate shelter and assistance in reporting incidents of trafficking to the police;

(e) Steps taken by the State party to enhance international cooperation with regard to preventing and punishing trafficking and to prevent the return of trafficked persons to their countries of origin if there are substantial grounds for believing that they would be in danger of torture.

11. With reference to the Committee's previous concluding observations (para. 16), please provide information on:

[4] See CCPR/C/SVK/CO/4, para. 25.

(a) Any amendments to legislation made during the period under review with a view to strengthening the mandate, immunity, independence, transparency of recruitment procedures and diversity of the members and staff[5] of the Slovak National Centre for Human Rights, in order to bring it into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

(b) Whether sufficient financial and human resources have been provided to the Centre with a view to enabling it to carry out its mandate independently and effectively.

Article 3

12. With reference to the Committee's previous concluding observations (para. 17), please provide information on:

(a) Measures taken to ensure full compliance with the obligations under article 3 of the Convention, so that individuals under the State party's jurisdiction receive appropriate consideration by the competent authorities and are guaranteed fair treatment at all stages of proceedings, including an opportunity for effective and impartial review by an independent decision-making mechanism, regarding expulsion, return or extradition, with suspensive effect;

(b) The number of refoulements, extraditions and expulsions carried out by the State party from its territory during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances where the State party has offered such diplomatic assurances or guarantees, and the measures that have been taken in such cases with regard to subsequent monitoring;

(c) Updated information with regard to any subsequent monitoring of Anzor Chentiev's case.

13. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous report. Please provide details on the grounds on which they were sent back, including the list of countries to which individuals were returned. Please provide updated information on the type of appeal mechanisms that exist, any appeals that have been made and the outcome of those appeals. Do such appeals have suspensive effect?

14. Please provide information on the legislative and other mechanisms to improve the identification and determination of statelessness and to introduce procedural safeguards to improve access to the procedure to determine statelessness.

Articles 5–9

15. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention.

16. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

17. Please clarify the mutual judicial assistance treaties or agreements that the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture and ill-treatment. Please provide examples.

[5] See CCPR/C/SVK/CO/4, para. 8.

Article 10

18. With reference to the Committee's previous concluding observations (para. 18), please provide information on:

(a) Specific measures taken during the period under review to develop and implement methodologies to assess the effectiveness and impact of training and educational programmes provided to law enforcement and other public officials on the provisions of the Convention;

(b) Steps taken to ensure that training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is made an essential part of training for all medical professionals and other public officials involved in work with persons deprived of their liberty;

(c) Whether instruction and methodical guidance has been ensured for police officers on the need to respect the principles of necessity and proportionality during police interventions, as well as on the absolute prohibition of torture and other State obligations under the Convention.

Article 11

19. With reference to the Committee's previous concluding observations (para. 10), please provide information on:

(a) Measures taken to ensure that prison conditions are in line with relevant international human rights standards, including strengthening the independent and regular monitoring of all places of deprivation of liberty by the Ombudsman and other independent mechanisms, including unannounced visits, as well as whether they are able to receive complaints from inmates about their conditions of detention and provide effective follow-up to such complaints;

(b) Measures taken to ensure that all persons deprived of their liberty, in particular prisoners serving life sentences, have access to an organized and purposeful regime, including out-of-cell activities and outdoor exercise, in order to prevent the deterioration of their mental faculties and social abilities;

(c) Any measures taken during the period under review to integrate prisoners serving life sentences into the general prison population;

(d) Steps taken to ensure the presence of a sufficient number of psychiatrists in the prison health-care system.

20. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or on any arrangements for custody, in particular those that may have been introduced or revised since the consideration of the previous report, and the frequency with which they are reviewed.

21. What measures has the Government been planning to abolish the use of net beds and other forms of mechanical restraint in psychiatric and other psychosocial institutions?

Articles 12–13

22. With reference to the Committee's previous concluding observations (para. 19), please provide comprehensive national statistical data, disaggregated by age, gender, ethnic or national origin and place of detention, on complaints; investigations; prosecutions, including disciplinary and criminal proceedings; convictions and the criminal or disciplinary sanctions applied in cases of torture and ill-treatment. Please provide examples of relevant cases and/or judicial decisions.

Article 14

23. Please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture or

their families since the consideration of the State party's previous report. That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

24. Please provide information on concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

25. Please provide information on any amendments made to the 2005 Family Code that would outlaw the corporal punishment of children in all settings, subsequent to the amendments made in 2015 that continued to allow "reasonable physical punishment" in the raising of children in families.[6]

Other issues

26. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those antiterrorism measures have affected human rights safeguards in law and in practice. Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with the relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to antiterrorism measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

27. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.

[6] See CRC/C/SVK/CO/3-5, para. 26.